

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7078

BILL NUMBER: SB 448

NOTE PREPARED: Dec 30, 2010

BILL AMENDED:

SUBJECT: Spice.

FIRST AUTHOR: Sen. Breaux

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill defines "synthetic cannabinoid" and makes possessing, dealing in, manufacturing, or delivering a synthetic cannabinoid equivalent to possessing, dealing in, manufacturing, or delivering marijuana, hash oil, or hashish. It makes conforming amendments.

Effective Date: July 1, 2011.

Explanation of State Expenditures: *Summary-* The bill adds synthetic cannabinoids to the element of some felony and misdemeanor drug offenses which may increase the number of offenders found guilty of these offenses. However, there are no data available to indicate how many more people may be convicted of these offenses as a result of synthetic cannabinoids being added to the elements of the offense. Also, the amount of enforcement necessary to oversee certain licensed or certified professions by adding synthetic cannabinoids to these offenses could increase costs for certain state agencies, boards, commissions, and committees. The amount of property forfeitures could also increase under the bill, which could offset some police costs or increase funds deposited in the Common School Fund.

Drug Offenses: The following offenses are affected by the inclusion of synthetic cannabinoids in the elements of the crime.

- Corrupt Business Influence, Class C felony
- Dealing in a Schedule I, II, or III Controlled Substance, Class B felony
- Possession of a Controlled Substance, Class D felony
- Dealing in Paraphernalia, Class A misdemeanor
- Reckless Dealing in Paraphernalia, Class B misdemeanor

- Dealing in Marijuana, Hash Oil, or Hashish, Class A misdemeanor
- Possession of Marijuana, Hash Oil, or Hashish, Class A misdemeanor

The penalties for these crimes increase by a crime class or to a Class D felony for the misdemeanor offenses in certain circumstances, including the location of the crime, amount of substance involved, and prior convictions of the offender. The following penalties apply to these offenses.

Crime Class	Average Sentence Range	Average Length of Stay
Class A felony	20 to 50 years	30 years
Class B felony	6 to 20 years	10 years
Class C felony	2 to 8 years	2 years
Class D felony	6 months to 3 years, or Reduction to Class A misdemeanor	10 months

The average expenditure to house an adult offender was \$19,307 in FY 2010. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. The estimated average cost of housing a juvenile in a state juvenile facility was \$68,260 in FY 2010.

Licensed or Certified Professionals: The bill would minimally increase regulatory costs to include convictions concerning synthetic cannabinoid to the causes for which the Department of Homeland Security, the Department of Education, or a board, commission, or committee may or shall deny, suspend, or revoke a certificate or license of an emergency medical services provider, a licensed elevator contractor, a school teacher, or a licensed or regulated person.

Forfeiture: The bill could increase the forfeiture of vehicles and money or monetary instruments, weapons, communication devices, or property used to commit, attempt to commit, or a conspiracy to commit dealing in a synthetic cannabinoid. To the extent that the court would notify the Bureau of Motor Vehicles (BMV) and the BMV produces a clear title for a seized vehicle, costs for the BMV could increase minimally. The funds and resources required above could be supplied through a variety of sources, including the following: (1) existing staff and resources not currently being used to capacity; (2) existing staff and resources currently being used in another program; (3) authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) funds that, otherwise, would be reverted; or (5) new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Explanation of State Revenues: *Drug Offenses:* If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a felony is \$10,000, for a Class A misdemeanor is \$5,000, and for a Class B misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public

defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Forfeiture: The proceeds from the sale of seized property are distributed first to the county sheriff to cover sale costs; then to any person holding a valid lien or having an interest in the property; and then to the Common School Fund as ordered by the court.

Explanation of Local Expenditures: *Drug Offenses:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The maximum term of imprisonment for a Class A misdemeanor is up to 1 year, while the maximum term for a Class B misdemeanor is up to 180 days. The average daily cost of housing a prisoner is approximately \$44.

Forfeiture: The prosecuting attorney for the county in which the seizure occurred may cause an action for reimbursement of law enforcement costs and forfeiture to be brought by filing a complaint in the circuit, superior, or county court of the jurisdiction and may retain an attorney to bring the action who is not a deputy prosecuting attorney.

Explanation of Local Revenues: *Drug Offenses:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

Forfeiture: A county sheriff may retain proceeds from the sale of a seized property to offset costs associated with its sale.

State Agencies Affected: Department of Correction; Department of Homeland Security; Department of Education; BMV; licensing or certifying boards, commissions, and committees.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association, Department of Correction.

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